

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**ORLANDO BAKING COMPANY,**

**Plaintiff,**

**vs.**

**6:19-CV-288  
(TJM/TWD)**

**PAMILIA'S PIZZA SHELLS AND DOUGH  
CO., LLC and GIOVANNI R. PUMILIA,**

**Defendants.**

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**Thomas J. McAvoy,  
Sr. U.S. District Judge**

**ORDER**

Plaintiff filed a Complaint in the instant action on March 1, 2019. See dkt. # 1. Plaintiff is an Ohio company with its principal place of business in that State. Id. at ¶ 2. Defendants are a New York company and a New York resident. Id. ¶¶ 2-3. Plaintiff's business involves "baking and sale of more than 250 varieties of fresh and frozen baked breads, rolls, and special bakery items." Id. at ¶ 7. Between September 30, 2017 and September 10, 2018, Defendant Pumilia's Pizza promised to pay more than \$300,000 in exchange for delivery of Plaintiff's goods and products. Id. at ¶ 8. Despite Plaintiff making "several" payment demands, Pumilia's Pizza neither paid the balances in full nor objected to Plaintiff's invoices. Id. at ¶ 9. Defendants' conduct violated the parties' agreement. Id. at ¶ 10. Plaintiff began making demands for substantial payment in April 2018, threatening otherwise to stop delivering goods or accepting future orders. Id. at ¶ 11.

Defendant Giovanni Pumilia personally promised to ensure that the company paid down the balance owed and asked Plaintiff to continue shipping orders. Id. at ¶ 12. Plaintiff's Complaint contains claims for payment on accounts stated, breach of contract, unjust enrichment, and fraudulent inducement. The Complaint seeks judgment of \$284,351.14 on accounts, contract, and unjust enrichment claims and damages of at least \$75,000 on the fraudulent inducement claim.

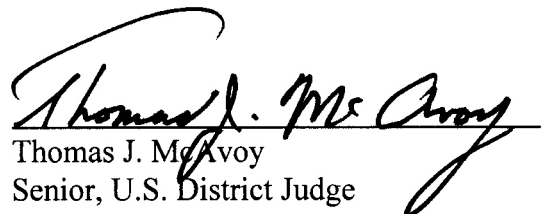
Plaintiff served the Complaint on Defendants. See dk. #s 5-6. Defendants did not answer the Complaint, and Plaintiff requested entry of default from the Clerk of Court. See dk. # 9. The Clerk entered default on April 18, 2019. Plaintiff filed the instant motion for default judgment on May 15, 2019. See dk. # 13.

The Court will grant the motion for default judgment. Defendants have not answered or otherwise responded to the Complaint. The Clerk has entered default against the Plaintiffs. The amount sought is a sum certain, and Plaintiff has provided documentary evidence to support this sum. Accordingly, the Plaintiff's motion for default judgment, dk. # 13, is hereby **GRANTED**, as follows:

1. Judgment is hereby entered against the Defendants, jointly and severally, in the amount of \$306,211.53. That amount reflects: (a) \$279,351.14 in principal and (b) \$26,860.39 in interest through February 28, 2019; and
2. The additional sum of \$68.88 per day from March 1, 2019 until the judgment is satisfied, representing interest calculated at the statutory rate of 9%.

**IT IS SO ORDERED.**

Dated: August 31, 2019

  
Thomas J. McAvoy  
Senior, U.S. District Judge